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BY MESSENGER

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Room 306
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Dear John:

We recently had a conversation in which you indicated your staff was currently working on an H-S-R exemption for certain lease financing arrangements. As I understand it, that exemption would entail an interpretation of Rule 802.1 for the acquisition of goods in the ordinary course of business. I describe below a transaction that I believe is identical in substance to the sort of lease financing arrangement that you wish to exempt, but has some structural peculiarities that implicate other exemptions.

In substance, a foreign airline will lease an aircraft from a wholly-owned foreign subsidiary of a United States leasing company. The structure or form of the transaction follows the following steps, all of which occur simultaneously:

1. A foreign airline will purchase an aircraft from a U.S. manufacturer for \$130 million.
 2. U.S. Leasing Corporation A has a wholly-owned subsidiary which is a single purpose foreign sales corporation ("FSC"), the only asset of which is the single aircraft that is the subject of this transaction. FSC is a foreign issuer.
 3. FSC will purchase the aircraft from and lease back to the foreign airline.
 4. U.S. Leasing Corporation B will acquire from U.S. Leasing Corporation A, 100% of the beneficial interest in the assets of a trust established by Leasing Company A at a United States bank ("U.S. Trust"). The Trust is a single purpose entity with no assets other than the stock of FSC.
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As a result of the transaction, U.S. Leasing Company B will control 100% of the voting securities of FSC, which shall receive the lease income on the 12.5-year lease of the aircraft as paid by the foreign airline lessee. The total value of the transaction is approximately \$130 million.

The transaction constitutes a bona fide lease financing arrangement which for tax and financial reasons is passed through a foreign sales corporation. The acquiring person is U.S. Leasing Company B and the acquired person is FSC, the foreign sales corporation, which is a wholly-owned subsidiary of Leasing Company A.

I believe the transaction should be exempt under Rule 802.50(b) as the acquisition of voting securities of a foreign issuer by a U.S. person. The foreign issuer holds no assets located in the United States and, although the transaction involves a new aircraft, will not make aggregate sales in the United States of \$10 million or more.

If you agree that the transaction is exempt under 802.50(b), my client would not intend to make a Hart-Scott-Rodino filing for the transaction.

Sincerely yours,



Conference that based on the facts presented the transaction appeared to be exempt per § 802.50 (b). We also discussed the possible application of § 802.63 - the exemption for the initial establishment of a lease financing arrangement by a creditor in a bona fide credit transaction in the ordinary course of business. Here, a lease financing company had been approved by the Bd of the airline carrier and that company decided it didn't want to finance the purchase of the plane. For a fee, it arranged w/ another lease financing company to assume its position.